THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.4401 OF 1999

DATED: 12.12.2007

Between:

G. Anjaiah

.. Petitioner

And

Sh. M.J. Mohan, Deputy General Manager (HR Services – North), Bharat Petroleum Corporation Limited, Noida and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.4401 OF 1999

ORDER:

This writ petition is filed seeking a Mandamus declaring the order, dated 08.01.1999, in Ref.GA.PERS.CON., passed by the 1st respondent, terminating the services of the petitioner, as arbitrary and illegal.

2. It appears, after subjecting to regular selection process, the petitioner was appointed as Steno Assistant III in Bharat Petroleum Corporation Limited, vide proceedings dated 22.12.1997, and was posted at Mathura Installation, Mathura of Uttar Pradesh. He was put on probation for a period of 12 months with effect from 12.01.1998. It is the case of the petitioner that, though he was discharging his duties sincerely without any sort of bad remarks, the 2nd respondent, on one pretext or the other, used to ill treat and harass him. While so, on 25.08.1998, due to sickness, he joined in Osmania General Hospital at Hyderabad. He sent medical report of his treatment along with authenticated medical certificates on 21.09.1998, 25.09.1998, 16.12.1998 and 25.12.1998, and, after recovering from ill health, he obtained fitness certificate and reported to duty on 29.12.1998. Thereafter, he was on duty upto 09.01.1999 and, suddenly, the 2nd

respondent has taken his signatures on certain notices and gave him the impugned order, dated 08.01.1999, passed by the 1st respondent, which is arbitrary and illegal.

3. In the counter affidavit filed on behalf of the respondents 1 to 3, while denying the allegations made by the petitioner, it is asserted that the petitioner, who applied for the post of Steno Assistant-III, was subjected to regular selection process and was offered employment at Mathura Installation, Uttar Pradesh. He accepted the said offer and reported at Mathura Installation, Uttar Pradesh, where he was appointed and posted on probation for a period of 12 months with effect from 12.01.1998. However, a condition was laid down that he should acquire the requisite speed of 100 words per minute in Shorthand, during the probation period. The petitioner was attached to Manager In-charge of Mathura Installation and the duties assigned to him included taking down dictations, typing letters and maintaining other related records/correspondence. While so, the Manager In-charge, Mathura Installation, during the period from January to April 1998, noticed that the petitioner was not showing interest in his work and was causing delay in typing the letters dictated to him. Thereupon, he was counseled by the officers to improve his performance. Thereafter, by the end of July 1998, the petitioner was attached to the 2nd respondent - Manager of Mathura Installation, who also noticed that the petitioner, though reporting to duty, was deliberately not doing any work and typing even a single letter dictated to him. On being counseled by the Manager and other employees, including local Union leader of the installation, on various occasions, the petitioner stated that he was not interested to work there and would not work till the Corporation provides him an inter-regional transfer to

Andhra Pradesh. Repeated counseling by the 2nd respondent and the local Union leader of the Installation, who had even visited the petitioner's residence to assist him and his family, did not yield any results. The petitioner remained adamant, continued his non-cooperative attitude and stopped discharging his official duties, though reporting at office. Under those circumstances, advisory letters were issued to him advising him to improve his performance, but there was no change in his attitude. While that being so, the petitioner, having applied for leave for a period of 11 days, left Mathura on 20.08.1998, and did not report to duty after expiry of leave on 31.08.1998 and did not inform anything. Thereupon, the 2nd respondent issued a telegram to him on 10.09.1998 and in response to the said telegram, the petitioner sent a letter, dated 22.09.1998, stating that he was suffering from back pain and it would take one month to recover and he also enclosed a medical certificate purported to have been issued by the doctor of Osmania General Hospital. But, even after expiry of the said one month period, the petitioner did not report to duty and there was no response from him to the letters sent by the authorities, asking him to report to duty. Further, since the petitioner was asked to fulfill the criterion of possessing requisite speed of 100 words per minute in shorthand, during the probation, he was asked to attend the test to be conducted by the management, but he remained absent. Thus, the petitioner, during the probation period, exhibited lack of interest and disregard in discharging his duties and maintained non-cooperative attitude towards superiors and colleagues and, hence, found not suitable to hold the post of Steno Assistant III. Under those circumstances, the respondents have taken a decision to terminate his services with effect from 09.01.1999 i.e. during probation period.

4. In view of the aforementioned averments made in the counter affidavit, I am of the opinion that there is no illegality on the part of the respondents in terminating the services of the petitioner. During the period of probation, the character, conduct and abilities of the employee are tested to see whether he is suitable for work, and, taking into consideration all those aspects, the employer takes a decision for regularization of the services of such employee. In the instant case, since the petitioner was found not suitable to hold the post of Steno Assistant III, during the period of probation, his services were sought to be terminated, by the impugned order dated 08.01.1999. I see no ground to interfere with the impugned order, dated 08.01.1999, under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

5. Accordingly, the writ petition is dismissed. No order as to costs.

JUSTICE C.V. RAMULU

12th December, 2007.
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